IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7599 OF 2006

Ashok Keru Dhotre. .. Petitioner.

vs.

State of Maharashtra

& Ors. . .. Respondents.

Mr. D.B. Sawant for petitioner.

Smt. V.B. Thadani for Respondent Nos.4 & 5.

Mr. A.H. Palekar for State.

CORAM : A.P. DESHPANDE, J.

DATE : 11th December, 2006.

P.C.

. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of the parties.

2. A CL-III licence for retail sale of country liquor was held by one Jagannath More since the year 1973. Jagannath More expired in August 1998 and, therefore, names of his two sons by name Vinod and Vivekanand More were taken on record as licensees.

The present petitioner joined in the said licence as a partner and the said application was allowed by an order passed by the Collector on 17.9.2005. At a later point of time, the names of the two brothers Vinod and Vivekanand came to be deleted and the present petitioner became the sole licensee which was permitted by an order passed by the Collector on 20.10.2005. The petitioner thereafter applied for shifting of the licence from Aadgaom to Roha and the said transfer was also permitted by an order passed by the Collector dated 28.3.2006.

3. Strangely enough respondent nos. 4 and 5 approached the Collector by a request to include their names as licensees in addition to Vinod and Vivekanand. The said application came to be rejected by the Collector by an order dated 28.9.2005 by observing that the said application is moved by respondent nos. 4 and 5 even before the names of Vinod and Vivekanand are taken on record as licensees. The order passed by the Collector was challenged by the present respondent nos. 4 and 5 before the Commissioner of State Excise. The Commissioner, concurring with the view taken by the Collector rejected the appeal and aggrieved thereby the petitioner has filed a revision before the concerned Minister. The Minister has allowed the appeal and directed cancellation of the licence.

4. What is relevant to note is that on the date on which the Minister passed the order i.e. on 21.9.2006, the holder of the licence was the present petitioner alone. The petitioner was not impleaded as a party respondent in the proceeding before the authorities and a decision is reached behind his back which adversely affects his civil rights. It is a settled position in law that even if an administrative action adversely affects civil rights of a citizen, the same cannot be done except after complying with the principles of natural justice. In the present case, the authorities are exercising quasi-judicial powers. Hence they could not have passed the order which goes to affect the petitioner without affording an opportunity of hearing to the petitioner being granted. It is not in dispute that the present petitioner was not heard before an adverse decision is reached in regard to the revocation of his licence as he was not impleaded as a party respondent in the revision filed before the Minister. If this be the position, the impugned order is wholly unsustainable and deserves to be quashed and set aside and thus, on this short ground alone the petition deserves to be allowed and I proceed to allow the same. The writ petition is allowed. The impugned order passed by the Minister, State Excise dated 21.9.2006 is quashed and set aside.

5. Rule is made absolute in the above terms. It is made clear that it shall be open for the respondent nos. 4 and 5 to make an appropriate application before the appropriate authority after impleading the present petitioner as a party respondent, if the validity of the said licence is to be questioned.

(A.P. Deshpande, J.)